

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.1753 OF 2007

Mrs.Hansa N. Rathod Petitioner
V/s.
Kailas Deep Co-op.Hsg.Soc. & Ors. Respondents

Mr.A.L. Gore for the Petitioner.

Mr.N.N. Bhadrashete for Respondent No.1.

Ms.Cardoza, A.G.P. for Respondent Nos.2 to 4.

CORAM : S.J. VAZIFDAR, J.
DATED : 27TH JULY, 2007.

P.C. :

1. The impugned order warrants no interference. The amounts paid by the Petitioner towards the recovery of maintenance charges were adjusted against the dues of the Petitioner in respect of the building repairs fund. The question therefore, is whether the Petitioners were liable to pay their shares for building repair fund. The society has 21 members. 19 members have paid all their dues. One member, I am informed has now agreed to pay his dues. Thus the Petitioner is the only person, who has refused to pay the dues. It appears that the Petitioner's son has also refused to pay the dues in respect of a shop occupied by him but that is the subject matter of a

separate Petition.

2. There is absolutely no justification for the Petitioner not having paid her share of the building repair fund of Rs.59,400/- in respect of flat Nos.14, Rs.79,016/- in respect of flat No.14-A occupied by her. There is nothing on record which suggests that the bills have not been drawn in accordance with law. Faced with this, it was submitted that the cheques aggregating to Rs.50,000/- had been forwarded but that the society had not accepted the same. This was obviously because the cheques were not as per the dues demanded by the society. The society cannot be blamed therefore for not accepting the payment. In any event, the fact remains that the amounts have not been paid and therefore, there is no case for deducting the interest that the society has charged.

3. It was then submitted that the society had illegally raised the charges for occupancy of garages owned by the Petitioner. The Petitioner owns two garages. This contention however is without any substance. There was a resolution of the society on 10.11.1990 by which the society had increased the charges. The claims have been made in accordance with the resolution. There is nothing to suggest that the

resolutions are bad in law.

4. In the circumstances there is no merit in this Petition and the same is dismissed with costs fixed at Rs.5000/- which shall be paid within six weeks from today.